IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1290 OF 1993

Anilkumar Govindji & Ors..... Petitioners.

Versus

State of Maharashtra & Ors..... Respondents.

Mr. Vivek Kantawala i/by M/s.Pravin Mehta & Mithi & Co., for the Petitioners.

Ms. Geeta Shastri, Asstt.G.P.for Respondents.

CORAM : S. RADHAKRISHNAN &

S. A. BOBDE, JJ.

DATED : 25TH AUGUST, 2004.

P.C.:

Heard the learned Counsel for the Petitioners and the learned Asstt. Government Pleader for the Respondents.

2. After hearing the parties for some time, it appears that the Petitioners were not afforded a fair hearing as contemplated under Section 37 of the Maharashtra Regional and Town Planning Act, 1966. Even the learned Assistant Government Pleader has

fairly stated that no hearing was given to the Petitioners before the issuance of the Notification dated 4th May, 1993 which was duly published in Maharashtra Government Gazette dated 10th June, 1993, being Exhibit "L" to the Petition pertaining to the Petitioners' property, which is described at Exhibit "A" to the Petition. In the said notification, the said property is mentioned at serial No. 161 as Site No.261 reserved for Secondary School, Site No. 728 is reserved for Playground and Site No.853 is reserved for Dispensary and Library as shown on plan.

3. Under the aforesaid facts and circumstances, only on the limited ground of non-compliance of the provision of hearing as contemplated under Section 37 of the Maharashtra Regional and Town Planning Act, 1966, we quash and set aside the impugned Notification dated 4th May, 1993 duly published on 10th June, 1993 in the Maharashtra Government Gazette, only pertaining to the Serial No. 161 i.e. the Petitioners' properties as mentioned hereinabove.

4. The learned Counsel for the Petitioners states that the Petitioners will make an appropriate detailed representation in writing, within a period of four

weeks from today, to the Principal Secretary, Urban Development Department, Government of Maharashtra. In the event of such a representation being made by the Petitioners, the Principal Secretary, Urban Development Department, Government of Maharashtra, shall afford an opportunity of personal hearing to the Petitioners and then decide the said representation strictly on its own merits and in accordance with law, as expeditiously as possible and preferably within a period of 12 (twelve) weeks thereafter.

5. Rule is made absolute in the aforesaid terms.

6. All Authorities concerned to act on an ordinary copy of this order duly authenticated as true copy by the Associate of this Court.

Sd/-

(S. RADHAKRISHNAN,J.)

Sd/-

(**S. A. BOBDE, J.**)